

IN the Matter of WAR EMERGENCY PIPELINES, INC. and OIL WORKERS  
INTERNATIONAL UNION, C. I. O.

*Case No. 2-R-4471.—Decided April 28, 1944*

*Messrs. Charles I. Thompson and W. Richardson Blair, of Philadelphia, Pa., for the Company.*

*Mr. Samuel L. Rothbard, of Newark, N. J., and Messrs. Alfred Katz and Bert J. Coffey, of Linden, N. J., for the Oil Workers.*

*Mr. John H. La Rowe, of Independence, Kans., for the Operating Engineers.*

*Mr. Max M. Goldman, of counsel to the Board.*

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Oil Workers International Union, C. I. O., herein called the Oil Workers, alleging that a question affecting commerce had arisen concerning the representation of employees of War Emergency Pipelines, Inc., Plainfield, New Jersey, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before John J. Cuneo, Trial Examiner. Said hearing was held at Newark, New Jersey, on March 9, 1944. At the hearing the Trial Examiner granted a motion to intervene made by International Union of Operating Engineers, A. F. of L., herein called the Operating Engineers. The Company, the Oil Workers, and the Operating Engineers appeared and participated. All parties were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed. All parties were afforded an opportunity to file briefs with the Board.

Upon the entire record in the case, the Board makes the following:

56 N. L. R. B., No. 15.

## FINDINGS OF FACT

## I. THE BUSINESS OF THE COMPANY

War Emergency Pipelines, Inc., a Delaware corporation with main offices at Cincinnati, Ohio, operates transcontinental pipelines known as "Big Inch" and "Little Inch," as agent for Defense Supplies Corporation. These pipelines transport and deliver crude oil and petroleum products from Texas to the New York and the Philadelphia refining areas. Both pipelines generally utilize the same right of way, and the Company maintains pumping stations along the lines at intervals of approximately 50 miles. "Big Inch" holds approximately 3,800,000 barrels of crude oil valued in excess of \$5,000,000, and the "Little Inch" holds approximately 3,000,000 barrels of petroleum products valued in excess of \$4,700,000.

The Company is a privately owned corporation operating the pipelines under an agency agreement with Defense Supplies Corporation, a subsidiary of Reconstruction Finance Corporation, which in turn is an agency wholly owned by the United States Government. The Company fixes its own labor relations policies. It maintains its own bank account, pays its employees on its own checks, keeps Social Security records for them, and carries workmen's compensation insurance, although it is reimbursed for these items by Defense Supplies Corporation.

The Company concedes, and we find, that it is engaged in commerce and that it is an employer within the meaning of the Act.<sup>1</sup>

## II. THE ORGANIZATIONS INVOLVED

Oil Workers International Union, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

International Union of Operating Engineers, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

## III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to the Oil Workers as the exclusive bargaining representative of its operating and maintenance employees in its Sixth Division until the Oil Workers has been certified by the Board in an appropriate unit.

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<sup>1</sup> See *Matter of Copolymer Corporation*, 52 N. L. R. B. 578.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the Oil Workers represents a substantial number of employees in the unit hereinafter found appropriate.<sup>2</sup>

We find that a question affecting commerce has arisen concerning the representation of employees of the Company, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

#### IV. THE APPROPRIATE UNIT

The Oil Workers seeks a unit of all operating and maintenance employees in the Company's Sixth Division, including truck drivers, guards, telegraphers, station engineers, and the "foreman welder," but excluding employees who work full time in any of the Company's offices and supervisory employees. The Company and the Operating Engineers contend, however, that a system-wide unit consisting of employees in all the Company's divisions is appropriate. There is also some disagreement among the parties as to the specific composition of the unit.

The main office of the Company is at Cincinnati, Ohio, at which point its operations and basic policies are determined and directed. However, for administrative purposes, the system is divided into six divisions, each under a superintendent responsible for its operation. Working conditions are generally uniform within each division and throughout the entire system. There is some interdivisional interchange of employees.

The Sixth Division is located in the States of New Jersey and Pennsylvania. The organizational activities of the Oil Workers has been limited to the employees of the Sixth Division. Although the Operating Engineers is organizing the Company's employees on a system-wide basis, it has not petitioned for a system-wide unit, and has made but a limited showing of representation in such a unit.<sup>3</sup> All the parties agree that the optimum unit should comprise the Company's entire system of six divisions. We believe that collective bargaining should be made an immediate possibility for the employees of the Sixth Division without requiring them to await the uncertain date when all the Company's employees may be organized. We find, accordingly, that at present a unit limited to the employees of the Sixth Division is appropriate. However, our finding in this respect does not preclude a later determination at another stage of self-organization that a larger unit is appropriate.

There remains for consideration the specific composition of the unit of employees of the Company's Sixth Division. The parties are in

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<sup>2</sup> The Field Examiner reported that the Oil Workers submitted 65 authorization cards, and that there were 144 employees in the unit the Oil Workers seeks. At the hearing, the Operating Engineers submitted 58 authorization cards; there are 840 employees in the unit it claims to be appropriate.

<sup>3</sup> See footnote 2, *supra*.

agreement, and it is clear, that the station engineers are not supervisory employees and that they should be included in the unit. They also agree, and it is clear, that the chief engineers, the master mechanic, the foreman, and the assistant foremen should be excluded from the unit as supervisory employees.

The Operating Engineers and the Company take no position as to the truck drivers and the guards, whom the Oil Workers seeks to include. The truck drivers pick up and deliver equipment and parts for the pump stations and gangs working along the lines. They also drive the employees on the lines back and forth from work. The guards are armed but not militarized or uniformed. They, like some employees classified as laborers, patrol the Company's property. Under the circumstances, we are of the opinion that the truck drivers and the guards have interests similar to those of the operating and maintenance employees, and accordingly, we shall include them.

The Company employs telegraphers at its pumping stations to transmit information regarding the flow of oil through its lines. There is no dispute as to the inclusion of the telegraphers as a class, but the Company urges the exclusion of one telegrapher at its Plainfield office as a confidential employee. The Oil Workers seeks his inclusion, and the Operating Engineers takes no position. This telegrapher transmits information concerning labor relations. In view of the confidential nature of the work of the Plainfield office telegrapher, we shall exclude him.

The Oil Workers seeks the exclusion of all employees who work full time in any of the Company's offices. Neither the Company nor the Operating Engineers voiced any objection to the exclusion of these employees. In pursuance of our usual policy, we shall exclude all employees who work full time in any of the offices of the Company.

The Company lists a "foreman welder" on its pay roll. Both unions desire his inclusion, whereas the Company asks that he be excluded. Since there are no employees under his supervision, we shall include him.

In accordance with the foregoing, we find that all operating and maintenance employees of the Company's Sixth Division, including truck drivers, guards, telegraphers, station engineers, and the "foreman welder," but excluding the telegrapher at the Plainfield office who transmits messages relating to labor relations, employees who work full time in any of the Company's offices, chief engineers, the master mechanic, the foreman, the assistant foremen, and all other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

## V. THE DETERMINATION OF REPRESENTATIVES

We shall direct that the question concerning representation which has arisen be resolved by an election by secret ballot among the employees in the appropriate unit who were employed during the pay-roll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction.<sup>4</sup>

## DIRECTION OF ELECTION

By virtue of and pursuant to the power vested in the National Labor Relations Board by Section 9 (c) of the National Labor Relations Act, and pursuant to Article III, Section 9, of National Labor Relations Board Rules and Regulations—Series 3, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with War Emergency Pipelines, Inc., Plainfield, New Jersey, an election by secret ballot shall be conducted as early as possible, but not later than thirty (30) days from the date of this Direction, under the direction and supervision of the Regional Director for the Second Region, acting in this matter as agent for the National Labor Relations Board, and subject to Article III, Sections 10 and 11, of said Rules and Regulations, among the employees in the unit found appropriate in Section IV, above, who were employed during the pay-roll period immediately preceding the date of this Direction, including employees who did not work during said pay-roll period because they were ill or on vacation or temporarily laid off, and including employees in the armed forces of the United States who present themselves in person at the polls, but excluding those employees who have since quit or been discharged for cause and have not been rehired or reinstated prior to the date of the election, to determine whether they desire to be represented by Oil Workers International Union, affiliated with the Congress of Industrial Organizations, or by International Union of Operating Engineers, affiliated with the American Federation of Labor, for the purposes of collective bargaining, or by neither.

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<sup>4</sup>The Company lists "warehouseman" as a classification on its pay roll, but at the time of the hearing it did not employ anyone in that position. The record indicates, however, that the Company intends to hire a warehouseman and an assistant warehouseman. It appears that the warehouseman will have supervisory authority and the assistant warehouseman will not. In the event that a warehouseman is employed during the pay-roll period immediately preceding the date of this Direction, and at that time possesses supervisory authority within the meaning of our customary definition, he shall not be eligible to vote. Should the Company employ an assistant warehouseman during the pay-roll period immediately preceding the date of this Direction, he shall be eligible to vote.